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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/006,729	12/04/2001	Rupert Gall	A34822 - 071308.0263	1328
7590	05/27/2004		EXAMINER	
Andreas Grubert Baker Botts L.L.P. One Shell Plaza 910 Louisiana Street Houston, TX 77002-4995			DINH, NGOC V	
			ART UNIT	PAPER NUMBER
			2187	10
DATE MAILED: 05/27/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/006,729	GALL ET AL. <i>clm</i>
	Examiner	Art Unit
	NGOC V DINH	2187

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 02 March 2004.

2a) This action is **FINAL**.                                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-7 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-7 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

**DETAILED ACTION**

**FINAL REJECTION**

1. This Office Action is responsive to Amendment filed 03/02/04 in which claim 1 has been amended.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office Action.

Applicant's arguments have been fully considered but are not persuasive.

In the remarks, with respect to claim 1, applicants argue in substance that Gunderson does not disclose an automation system. Applicants also argue in substance that Gunderson does not distinguish between application program and system program.

The Examiner respectfully submits that applicant's position is misplaced. Gunderson clearly teaches an automation system as in fig. 1, col. 1, lines 63-63 "a computer system", and in col. 4, line 33 "a personal or home computer". As cited by the applicant in the specification, page 4, line 10-11, "The automation system according to Figure 1 is PC-based". Gunderson teaches a personal computer, therefore Gunderson teaches an automation system. Gunderson further teaches his system is an automation system, "backup will either occur automatically", col. 5, line 30; "the software execute an automatic, on-time verification of the entire driver", col. 9, lines 50-51.

Gunderson also teaches that application program are the user's application programs and other programs, col. 12, lines 15-16; and system program are the DOS and BIOS program, col. 9, line 12, col. 9, line 63.

Applicant's previous arguments are moot with regard to claims 1-7 in view of the new rejection.

**STATUS OF CLAIM FOR PRIORITY IN THE APPLICATION**

2. As required by M.P.E.P. 201.14(c) acknowledgement is made of applicant's claim for priority based on an application filed 10/01/2001 in Germany.

*Claim Rejections - 35 USC § 112*

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter industrial technical installation which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected. The industrial technical installation as best understood by the Examiner is merely a PC base with a fixed or removable CD-Rom drive.

*Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7 are rejected under 35 U.S.C 103(a) as being unpatentable over Gunderson PN 6,073,220, and in view of Dean et al PN 6,336,101.

**4. As per claim 1:**

Gunderson teaches an automation system comprising: a bus coupled to the input and output unit [fig. 1]; a personal computer comprising a work drive unit [1, 2, fig. 1] and a backup drive unit [5, 6, fig. 1], wherein work programs [e.g., operating system included in the device identifying mechanisms; code BIOS, DOS; col.3, lines 45-65; col. 4, lines 1-15] and work data [e.g., user's application; col. 12, lines 15-16] are stored in the work drive unit, and further wherein a backup copy of at least part of the work programs and work data are stored by means of backup program [e.g., backup software; fig. 6, step 43; col. 7, lines 12-25] in the backup drive unit, so that part of the work programs and work data can be easily restored [fig. 5; restoring process; col. 11, lines 8-30]; [col. 2, line 60 to col. 3, line 20; col. 6, lines 16-55; col. 7, lines 28-65; col. 9, line 45 to col. 10, line 65; fig. 1-2].

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Gunderson does not teach an industrial technical installation; and input and output unit coupled to the industrial technical installation.

Dean teaches an industrial technical installation [e.g., net work installation operation, col. 6, lines 60-65]; and input and output unit coupled to the industrial technical installation [fig. 1-2; col. 1, lines 45-60; col. 4, line 55 to col. 5, line 30].

It would have been obvious to one having ordinary skill in the art at the time the invention was made to further include industrial technical installation as taught by Dean into Gunderson automation system. Doing so would reduce the cost of installation and increase productivity [Dean, col. 1, line 65; col. 2, lines 5-15]. Furthermore, today's modern manufacturing and industrial installations are becoming increasingly automated to increase quality and reduce costs to better compete in the global market.

**5. As per claims 2-7:**

With respect to claims 2-7, Gunderson further teaches:

Per claim 2, the work programs comprises system programs [e.g., DOS, BIOS] and application programs [e.g., user's application, backup software], and the work data comprises system data assigned to system programs and application data assigned to application programs [col. 4, lines 15-20; col. 4, lines 50-55; col. 12, lines 10-16].

Per claim 3, the system programs comprises the backup program [col. 4, lines 15-20].

Per claim 4, the work drive unit [1, 2, fig. 1] has a system drive unit and application drive unit, and the system programs and the system data are stored in the system drive unit, and the application data are stored in the application drive unit [backup software, fig. 2].

Per claim 5, the system drive unit has a main system drive unit [primary drive#2, fig. 1] and a auxiliary system drive unit backup [drive#2. fig. 1], and further and auxiliary operating system, its system data and backup program are stored in the auxiliary drive unit, and a main operating system and its system data are stored in the main system drive unit [col. 4, lines 25-40].

Per claim 6, Implicitly, Gunderson teaches the drive units are logical drive units of a common physical drive unit. This is because in general, a drive array is a collection of hard disk drives grouped together to create an array of physical drives. Drive array technology, typically in the form of a dedicated hardware controller, or controller software executing on a

computer system's host processor, distributes data across one or more disk drives to combine these physical drives into one or more logical drives.

Per claim 7, the backup drive unit is able to store at least two backup copies [col. 4, lines 15-16].

## CONCLUSION

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for response to this final action is set to expire THREE MONTHS from the date of this action. In the event a first response is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for response expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoc Dinh whose telephone number is (703) 305-3023. The examiner can normally be reached on Monday-Friday 8:30 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald A. Sparks, can be reached on (703) 308-1756. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-7239 for regular communications and (703) 746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

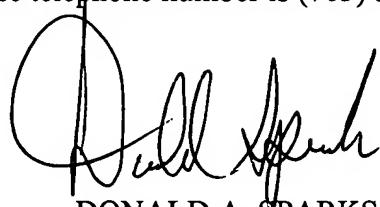
*ND*

NGOC DINH

Patent Examiner

ART UNIT 2187

May 20, 2004



DONALD A. SPARKS

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